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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/790,782	01/30/97	MATSUSHITA	T TSI.1162

DOW CORNING CORPORATION  
PATENT DEPARTMENT  
MAIL CO1232  
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15M2/1217

EXAMINER
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MARQUIS, M	
ART UNIT	PAPER NUMBER

1501

DATE MAILED: 12/17/97

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

### OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 01-30-97

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

- ☒ Claim(s) 1-518 is/are pending in the application.  
Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-518 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

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15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 to 8 rejected under 35 U.S.C. 102(b) as being anticipated by European Patent

Application 0 645 779 A1 or Niemi, Patent No. 4,476,155.

European Patent Application, EPA '779, teaches in Example 1 a silicone rubber composition.

The recited (A) 100 parts of organopolysiloxane gum is met by the 100 parts of diorganopolysiloxane having 0.2 mole% of methylvinylsiloxane unit. Note that page 3, lines 8-11 require at least 2 Si-bonded alkenyl groups in one molecule. Such groups are vinyl, allyl and propenyl.

The 10 to 300 parts by weight of aluminum hydroxide powder (B) are shown by EPA ;779 in Example 1 at lines 10-11 of page 5. Note on page 3, lines 55-58, that a particle diameter of less than 5 microns is preferred.

The recited (C), the 0.1 to 30 parts by weight of the treating agent, a silane or siloxane oligomer, having alkenyl and alkoxy or hydroxy substitution, is shown by the 1.5 parts of dimethylsiloxane oligomer having silanol termination.

The claimed 0.1 to 10 weight parts of oranoperoxide (D) are shown by 0.4 parts of 2,5-dimethyl-2,5-di(t-butyl peroxy) hexane of Example 1, line 13 on page 5.

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Niemi teaches in col. 13, lines 7-23 a silicone rubber composition having 100 parts of a silicone rubber base having 0.142 mol % vinyl radicals-compare with (A) 100 parts by weight of the organopolysiloxane gum having at least 2 Si-bonded alkenyl groups in each molecule; 120 parts of aluminum hydroxide having an average particle size of about 0.7 micrometer of patentee meets the claimed (B); the 7.5 parts of hydroxy terminated polydimethylsiloxane fluid meets the recited (C).

Patentees' one part of 50% active powder of 2,5-bis (tertbutylperoxy)-2,5-dimethylhexane meets the recited (D), 0.1 to 10 weight parts of organoperoxide.

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

Claims 1 to 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Matsushita, et al., Patent No. 5,519,080.

Matsushita, et al. teach in Example 1, col. 5, lines 33-58 a silicone rubber composition comprising 100 parts of diorganopolysiloxane rubber having 0.2 mol% of methylvinylsiloxane (note in col. 2, lines 41-46 that the presence of at least 2 Si-bonded alkenyl groups per molecule is necessary in the diorganopolysiloxane gum), which meets the claimed (A); 100 parts of aluminum hydroxide, which meets the recited (B); 9.0 parts of a dimethylsiloxane oligomer with silanol

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termination, which meets the recited (C); and 0.4 parts of 2,5-dimethyl-2,5-di(t-butyl peroxy) hexane, which meets the claimed (D).

17. Claims 1 to 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Matsushita, et al. Patent No. 5,519,080.

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

**Melvyn I. Marquis:eap**  
Primary Examiner

December 12, 1997

  
**MELVYN I. MARQUIS**  
PRIMARY EXAMINER  
GROUP 1500